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Supreme Court, U.S.
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No. 95-1962

In The

Supreme Court of the United States

October Term, 1995

REPUBLICAN PARTY OF ALASKA,

Petitioner,

v.

MIKE O'CALLAGHAN, JED WHITTAKER, ROBERT GIGLER, ALASKAN VOTERS FOR AN OPEN PRIMARY, AND STATE OF ALASKA, LIEUTENANT GOVERNOR JACK COGHILL, IN HIS OFFICIAL CAPACITY AS LIEUTENANT GOVERNOR,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court Of Alaska

SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

The Republican Party of Alaska (RPA) and its members have petitioned this court for a writ of certiorari to review the decision of the Supreme Court of Alaska in *O'Callaghan v. State of Alaska*, 914 P.2d 1250 (Alaska 1996).

This second supplemental brief is filed pursuant to Rule 15.8 to apprise this Court of what has recently taken place at the Republican National Convention, and to demonstrate further why the Petition for Writ of Certiorari should be granted.

FURTHER PROCEEDINGS AND REASONS FOR GRANTING PETITION

On August 12, 1996, at the Republican National Convention held at San Diego, California, the Republican Party adopted National Party Rule 34(f), which reads as follows:

> On or after January 1, 1997, no state law or party rule shall be observed that allows persons who have participated or are participating in the selection of any nominee of a party other than the Republican Party, including, but not limited to, through the use of a multi-party primary or similar type ballot, to participate in the selection of a nominee of the Republican Party for that general election. No person nominated in violation of this rule shall be recognized as the nominee of the Republican Party. If state law or state party rule provides for the selection of the nominee of the Republican Party in violation of this rule, the Republican nominee shall be selected

> by a convention convened and held under procedures not inconsistent with the provisions of Rule No. 32(c), unless a state party rule provides specifically to the contrary.

This rule was adopted in response to the infringements placed on the right of the Republican Parties of the various states to free political association, imposed by *O'Callaghan v. State of Alaska*, 914 P.2d 1250 (Alaska 1996) and California Initiative Proposition 198, mandating open primary elections in the States of Alaska and California.

The necessity of the Republican Party to protect itself from state legislation forcing it to allow Democrats and members of other political parties from voting in Republican Primary elections has now been recognized at the national level. The Alaska Open Primary is now in violation of National Republican Party Rules. No person nominated in the Alaska Open Primary election can be recognized as the nominee of the Republican Party. The Republican Party of Alaska (RPA) must now select its nominees by convention, unless a state party rule provides specifically to the contrary. Of course, nomination by convention also violates the Alaska Statutes.

The RPA will not be able to comply with the Alaska Statutes, Republican Party Rule 34(f), and also protect its first amendment right of free political association. A possible effect the conflict between the Alaska Statutes, Republican Party Rule 34(f), and the RPA's of free political association may have is that the RPA may not be able to have any of its candidates recognized as nominees of the Republican Party, and placed on future Alaska general election ballots.

With the enactment of Republican Party Rule 34(f), the negative impact of the *O'Callaghan* decision and California Initiative Proposition 198 has been formally spread nationwide, and the harm to the RPA and its members is continuing to increase. The root of the problem is *O'Callaghan v. State of Alaska*, 914 P.2d 1250 (Alaska 1996). This Court is the only venue that can now deal with the *O'Callaghan* decision, and protect the right of free political association, not only of the RPA and its members, but of all state Republican and other political parties and their members nationwide.

CONCLUSION

The RPA respectfully requests that this Court grant the Petition for Writ of Certiorari, and reverse the decision of the Supreme Court of Alaska.

Respectfully submitted,

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